

Exhibit 1

LAW OFFICES OF
RALPH W. BOROFF, P.C.

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FAX TRANSMITTAL SHEET

DATE: December 28, 2007

NUMBER OF PAGES TRANSMITTED (EXCLUDING COVER): 3

TO: Traci A. Kirkbride, Deputy County Counsel
Office of the County Counsel
County of Monterey
Facsimile: (831) 755-5283

FROM: Ralph W. Boroff

RE: Jimmy D. Haws, et al. vs. County of Monterey, et al.
U.S. District Court, Northern District of California
Case No. C07 02599

COMMENT: cc: Michael Moore, Esq.
Facsimile: (415) 956-6580

David Sheuerman, Esq.
Facsimile: (408) 295-9900

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EXHIBIT 1
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RALPH W. BOROFF, P.C.
55 RIVER STREET, SUITE 100
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FAX (831) 426-0159

SENT BY FACSIMILE AND U.S. MAIL

December 28, 2007

Traci Kirkbride, Deputy County Counsel
Office of the County Counsel
County of Monterey
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

re: Jimmy D. Haws, et al. vs. County of Monterey, et al.
U.S. District Court, Northern District of California
Case No. C07-2599-JF

Discovery Meet and Confer
FRCP 37 (a)(2)(B)

Dear Ms. Kirkbride:

I reviewed your letter of December 26 with some puzzlement. We submitted 40 document production requests and 18 interrogatories to you two months ago. You repeatedly reassured Mike Moore that your minions were working on these projects while you were away and that we would have substantive responses in hand by December 21. When I reviewed your promised product upon its arrival December 26 I found not a single document produced and only one interrogatory answered. Of all the information sought you are now able to tell us only that the jail was rated for 813 inmates. Why have you not been able to produce more information given over two months to do so with an impending mediation (February 19, 2008) and trial? Because it is Christmas. But it has not been Christmas for two months Ms. Kirkbride.

We needed requested information so we could prepare for the depositions in January. I am leaving on holiday out of the country from January 24 until February 18. This information was made known to you when we were scheduling the mediation with Gail Killifer back in November; yet yesterday you called my office to suggest we reschedule the person most knowledgeable deposition I had noticed for December 23 to January 25. This morning it became January 11 or 22. And this afternoon it becomes "Gee. We don't really have a PMK. You need to chase the information down with California Forensic Medical Group."

My concern: We are making very little headway on discovery because of your unwillingness to roll up your sleeves. There will come a day when we stand before Judge Fogel

Traci Kirkbride
re: Jimmy Haws, et al. v. County of Monterey, et al.
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and try to explain why the case is this old with nothing happening on it. He will likely remind us that we are all experienced counsel and know our remedies when someone does not participate in discovery in a meaningful fashion. I want to avoid that. I also want to avoid numerous inefficient deposition reschedulings. Finally, I want to avoid having to either try an ill prepared case or continuing a trial because we did not pursue our discovery plan with diligence.

All subsequent discovery is premised upon that which was submitted to you. Mr. Sheuerman says his client does not belong in this litigation. He may be right. In order to determine that I need to take Dr. Miller's deposition in Oregon. But it is futile to do so when we do not have information from you which is necessary to prepare for Dr. Miller's deposition. I had planned to take that deposition on January 18, 2008, and now cannot. So Sheuerman and his client stay in this litigation for now.

1. REQUEST FOR DOCUMENT PRODUCTION. It is our position that you have waived any claims of privilege or other objection to requested discovery. "Failure to object to discovery requests within the time required constitutes a waiver of objection..." *Richmark Corp v. Timber Falling Consultants* (9th Cir. 1992) 959 F2d 1468 at 1473.

In numerous instances you have alleged to the possibility of raising a privilege objection, without specifying the nature of the privilege. First, your responses are untimely. Second, your failure to at least identify the privilege upon which you may rely accompanied by a privilege log makes the claim ineffective as well as untimely. FRCP 26 (b)(5). *Burlington Northern and Santa Fe Ry Corp. v. United States District Court for the District of Montana* (9th Cir. 2005) 408 F3d 1142 at 1148. Cf. *U.S. v. Construction Products Research Inc.* (2d Cir. 1996) 73 F3d 464 at 473.

2. INTERROGATORIES

a. VERIFICATION. Of the 18 interrogatories submitted, you answered one. That answer was not verified as required under FRCP 33 (b)(1)(2).

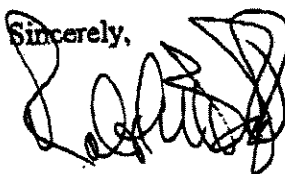
b. PRIVILEGE. In each instances you allude to the possible claims of privilege. Once again, your responses are untimely and, therefore, you have waived privilege claims. Again, you have failed to even identify the privilege upon which you might rely in the future when you provide substantive responses. This constitutes a separate defect in your response and further reason for finding waiver.

c. PROOF OF SERVICE. Your interrogatory responses are accompanied by an unsigned proof of service indicating that one Cecilia Zazueta mailed them on December 21, 2007. As such the proof of service is defective.

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re: Jimmy Haws, et al. v. County of Monterey, et al.
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SOLUTION: My objective is to acquire meaningful discovery responses and move this process to something more efficient. To that end, I suggest you either agree to provide the documents and interrogatory responses with verification and without objection or claim of privilege within a period of time allowing Mr. Moore and me an opportunity for their review before our first deposition (currently scheduled for January 14, 2008) e.g. January 7, 2008, or we proceed to informal chambers conference with Judge Fogel to informally resolve this dispute pursuant to ND CA Rule 37-1(b) as soon as possible. I require your written response before close of business December 31, 2007. If I have not received your unequivocating agreement to one of these two choices by that time I will conclude my meet and confer obligation has been met and will file a motion to compel discovery and for appropriate economic sanctions immediately thereafter.

Sincerely,



RALPH W. BOROFF

RWB:jv

cc: Michael Moore, Esq.
Facsimile: (415) 956-6580

David Sheuerman, Esq.
Facsimile: (408) 295-9900

Exhibit 2

COUNTY COUNSEL
CHARLES J. McKEE
ASSISTANT COUNTY COUNSEL
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OFFICE OF THE COUNTY COUNSEL

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SALINAS, CALIFORNIA 93901-2653
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FAX: (831) 755-5283



December 31, 2007

 **COPY**

VIA FACSIMILE & U.S. MAIL

Ralph W. Boroff
55 River Street, Suite 100
Santa Cruz, CA 95060
Fax: (831) 426-0159

Re: *Jimmy D. Haws vs. County of Monterey*, (USDC No. C07-2599-JF)

Dear Mr. Boroff:

This letter is to confirm our telephone conversation of this morning whereby you agreed to extend the deadline for Ms. Kirkbride to respond to your letter dated December 28, 2007 from today to the close of business on **Wednesday, January 2, 2008**.

Thank you for your professional courtesy.

Sincerely,

CHARLES J. McKEE
County Counsel



RICHARD deSaulles
Legal Support Manager

RSD:rsd

cc: Traci Kirkbride

EXHIBIT 2
PAGE 1 OF 1 PAGES

Exhibit 3



Haws - Production to Ralph B
US Airbill
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Sender's Copy

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Address **168 W ALISAL ST FL 3**

City **SALINAS** State **CA** ZIP **93901**

2 Your Internal Billing Reference OPTIONAL

3 To

Recipient's Name **RALPH BOROFF, ESQ** Phone ()

Company **LAW OFFICES OF RALPH W. BOROFF**

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*FedEx Package rate not available. Minimum charge: One-pound rate.

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*FedEx Package rate not available. Minimum charge: One-pound rate.

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519

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